

Message Text

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ACTION EUR-12

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C O N F I D E N T I A L WARSAW 9403

E.O. 11652: GDS
TAGS: OVIP (CARTER, JIMMY) SCCE, SHUM, CGEN, CVIS, PL, US
SUBJECT: PRESIDENTIAL VISIT--SECRETARY'S MEETING WITH FOREIGN
MINISTER WOJTASZEK

REF: (A) WARSAW 8970, (B) WARSAW 9295

1. THE DEPARTMENT KNOWS THE STATUS OF THE THREE SENSITIVE
HUMANITARIAN CASES WHICH I PRESENTED TO VICE MINISTER SPASOWSKI
DECEMBER 12. WHILE WE BELIEVE THAT THE ANNA STAWCZYK CASE IS
ON THE WAY TO RESOLUTION, WE HAVE NOT YET HEARD FROM MRS.
WIECZORKOWSKA THAT SHE HAS GOTTEN THE CHILD'S PASSPORT AND CAN
THUS PLAN ANNA'S ACTUAL TRAVEL TO THE UNITED STATES. WE WILL
BE FOLLOWING THAT CASE VERY CAREFULLY. I HOPE TO BE ABLE TO
INFORM THE SECRETARY BEFORE HIS BILATERAL WITH FOREIGN MINISTER
WOJTASZEK THAT ANNA STAWCZYK IS DOCUMENTED TO JOIN HER MOTHER.
WE HAVE HAD NO NEWS YET ABOUT THE KENNEDY-STROJEK AND
PIKE-BIEGUNSKI CASES.

2. ON DECEMBER 27, I PRESENTED THE FOLLOWING MEMORANDUM ON
A FOURTH CASE TO VICE MINISTER SPASOWSKI.
BEGIN TEXT. MRS. MARIA KOTLARZ ENTERED POLAND ON
MARCH 21, 1977, TO VISIT HER FAMILY IN BIALOGARD. SHE
HAD IN HER POSSESSION A U.S. PASSPORT, ISSUED NOVEMBER
18, 1976, IN BUFFALO, NEW YORK, BEARING A VALID POLISH
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VISA ISSUED BY THE POLISH CONSULATE IN CHICAGO ON MARCH 7,
1977, AND VALID FOR 90 DAYS. UPON REGISTERING WITH THE
POLISH AUTHORITIES IN BIALOGARD IN ACCORDANCE WITH POLISH
LAW, HER U.S. PASSPORT WAS TAKEN FROM HER. SHE WAS
INFORMED THAT SHE DID NOT HAVE A RIGHT TO THAT PASSPORT
AND THAT IT WOULD NEVER BE RETURNED TO HER. SHE WAS
TOLD THAT SHE WOULD NEVER BE ALLOWED TO RETURN TO THE

U.S. THE POLISH AUTHORITIES CONTEND THAT MRS. KOTLARZ'S VISA WAS FRAUDULENTLY ACQUIRED BECAUSE SHE INDICATED IN HER VISA APPLICATION THAT SHE ENTERED THE U.S. ON A DIFFERENT DATE THAN SHE ACTUALLY DID. ACCORDING TO THE POLISH AUTHORITIES, ARTICLE 29 OF THE CONSULAR CONVENTION AND THE STOESSEL-SPASOWSKI EXCHANGE OF NOTES DO NOT APPLY IN CASES OF VISA APPLICANTS WHO ARE "DUAL NATIONALS" AND OBTAIN THEIR VISAS BY FRAUD.

U.S. GOVERNMENT INTERVENTION IN THIS CASE HAS BEEN:

A. AN INQUIRY BY THE CONSULAR OFFICER IN POZNAN TO THE POLICE IN BIALOGARD IMMEDIATELY AFTER THE PASSPORT CONFISCATION.

B. NOTE C-4, DATED MARCH 31, TO THE MFA, REQUESTING RETURN OF MRS. KOTLARZ'S PASSPORT.

C. A LETTER FROM THE EMBASSY TO THE MFA, DATED MAY 13, 1977, REQUESTING INFORMATION ABOUT THE CASE.

D. NOTE C-19, DATED JULY 5, TO THE MFA (WITH PASSPORT), REQUESTING THEY REVALIDATE THE POLISH VISA.

E. NOTE C-25, DATED AUGUST 8, TO THE MFA, REQUESTING ACTION, STRESSING THE MENTAL AND EMOTIONAL STRAIN BEING EXPERIENCED BY MRS. KOTLARZ.

F. SEPTEMBER 28, 1977, A CONVERSATION BETWEEN VICTOR WOLF, COUNSELOR OF EMBASSY FOR CONSULAR AFFAIRS, AND JANUSZ MICKIEWICZ, VICE DIRECTOR, CONSULAR DEPARTMENT, MFA, ON THIS ISSUE.

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G. NOVEMBER, A CONVERSATION BETWEEN VICTOR WOLF, COUNSELOR OF EMBASSY FOR CONSULAR AFFAIRS, AND JANUSZ MICKIEWICZ, VICE DIRECTOR, CONSULAR DEPARTMENT, MFA.

H. NOTE C-36, DATED NOVEMBER 14, REQUESTING ACTION AND REFERRING TO PREVIOUS NOTES SENT BY THE EMBASSY.

I. CONVERSATION BETWEEN VICTOR WOLF, COUNSELOR OF EMBASSY FOR CONSULAR AFFAIRS, AND JANUSZ MICKIEWICZ, VICE DIRECTOR, CONSULAR DEPARTMENT, MFA, DECEMBER 6, 1977.

J. CONVERSATION BETWEEN VICTOR WOLF, COUNSELOR OF EMBASSY FOR CONSULAR AFFAIRS, AND JANUSZ MICKIEWICZ, VICE DIRECTOR, CONSULAR DEPARTMENT, MFA, DECEMBER 19, 1977.
END TEXT.

MY PRESENTATION MAKES THE ELEVENTH USG INTERVENTION IN THIS CASE. THE GOP HAS NOT BEEN RESPONSIVE. I FIND PARTICULARLY DISTURBING THE POLISH CONTENTION THAT THE OPERATIVE PARAGRAPH OF OUR NOTE NO. 38 OF MAY 31, 1972, QUOTED BELOW, DOES NOT APPLY IN ALLEGED CASES OF FRAUD. IT IS NOT CLEAR WHAT OCCURED WITH MRS. KOTLARZ'S POLISH VISA APPLICATION. HOWEVER, IT WOULD BE UNACCEPTABLE IF THE GOP WERE ABLE TO CONSTRUE ANY ERROR ON A VISA APPLICATION AS GROUNDS FOR AVOIDING ITS OBLIGATIONS UNDER THE

SPASOWSKI-SOTESSEL EXCHANGE OF NOTES.

BEGIN TEXT. PERSONS ENTERING THE POLISH PEOPLE'S REPUBLIC FOR TEMPORARY VISITS ON THE BASIS OF UNITED STATES PASS-PORTS CONTAINING POLISH ENTRY VISAS WILL, IN THE PERIOD FOR WHICH TEMPORARY VISITOR STATUS HAS BEEN ACCORDED (IN CONFORMITY WITH THE VISA'S VALIDITY), BE CONSIDERED UNITED STATES CITIZENS BY THE APPROPRIATE POLISH AUTHORITIES FOR THE PURPOSE OF ENSURING THE CONSULAR PROTECTION PROVIDED FOR IN ARTICLE 29 OF THE CONVENTION AND THE RIGHT OF DEPARTURE WITHOUT FURTHER DOCUMENTATION, REGARDLESS OF WHETHER THEY MAY POSSESS THE CITIZENSHIP OF THE POLISH PEOPLE'S REPUBLIC. END TEXT.

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3. DISCUSSION: WITH REGARD TO THE KENNEDY-STROJEK AND PIKE-BIEGUNSKI CASES, WE CAN BE REGARDED BY THE POLISH AUTHORITIES AS INTERVENING IN MATTERS OF THE TREATMENT OF POLISH CITIZENS BY THEIR GOVERNMENT, ACCORDING TO TRADITIONAL CONCEPTS OF INTERNATIONAL LAW. IF, HOWEVER, WE REGARD THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AS CONSTITUTING A VALID MORAL CRITERION BY WHICH GOVERNMENTS MAY BE JUDGED IN THEIR OBSERVATION OF THE RIGHTS OF THE INDIVIDUAL CITIZEN, THEN I CONSIDER THAT WE ARE FULLY JUSTIFIED IN RAISING THESE CASES WITH THE POLES.

4. RECOMMENDATION: I THEREFORE RECOMMEND THAT THE SECRETARY RAISE WITH FOREIGN MINISTER WOJTASZEK THOSE OF THESE FOUR CASES WHICH HAVE NOT BEEN SOLVED DEFINITELY BY FRIDAY AFTERNOON.
DAVIES

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